
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL KENNETH CROMAR;
BARBARA ANN CROMAR; UTAH
HOUSING FINANCE AGENCY;
UNIVERSAL CAMPUS FEDERAL
CREDIT UNION; STATE OF UTAH
TAX COMMISSION; and UTAH
COUNTY,

Defendants.

**ORDER DENYING MOTION FOR
LEAVE TO FILE CROSS
COMPLAINT**

Case No. 2:17-cv-01223

Chief Judge Robert J. Shelby
Magistrate Judge Evelyn J. Furse

On August 28, 2018, the court imposed restrictions on the process by which Defendants Paul Kenneth Cromar and Barbara Ann Cromar (the Cromars) may file motions or documents in this case.¹ Pursuant to that process, the Cromars filed a “Motion for Leave of the Court to File Cross Complaint.”² The United States did not file a response.

Having reviewed the Motion for Leave and the attached Objection, the court denies the Motion for Leave for two reasons. First, the Cromars are in default. The court entered default on July 12, 2018 due to the Cromars’ failure to file an answer or defend against the United States’ claims.³ Because they are in default, the Cromars must show good cause why the entry of default should be set aside before they may answer the Complaint.⁴ And because the time

¹ Dkt. 74.

² Dkt. 91.

³ Dkt. 63.

⁴ See Dkt. 69 n.5 (explaining the effect of an entry of default and citing 2 Fed R., Civ. P., Rules and Commentary, Rule 55).


provided by the Federal Rules to answer the Complaint has long passed, they must also seek leave to serve an untimely answer.⁵

The court also denies the Motion for Leave based on the substance of the proposed filing. Although the Cromars state their intention to file “this Answer in the form of a Cross-Complaint,”⁶ the proposed filing does not answer the Complaint. Under Rule 8(b) of the Federal Rules of Civil Procedure, an answer must “state in short and plain terms its defenses to each claim asserted against it” and “admit or deny the allegations asserted against it by an opposing party.” The attached “Cross Complaint” (which is actually a counterclaim) does neither.

An answer may include a counterclaim, but the Cromars may not file any counterclaim in this case without (a) demonstrating good cause for default to be set aside; (b) seeking leave to file an untimely answer; and (c) answering the United States’ Complaint. The Cromars’ Motion⁷ is DENIED.

SO ORDERED this 10th day of January, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'RJL', written over a horizontal line.

ROBERT J. SHELBY
United States Chief District Judge

⁵ *Id.*

⁶ Dkt. 91.

⁷ Dkt. 91.